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Attorneys for Plaintiff,

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

CHET MICHAEL WILSON, individually and	:	
on behalf of all others similarly situated,	:	CIVIL ACTION FILE NO. 25-cv-173-AA
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
FINMAX SMART CAPITAL LLC	:	
	:	
Defendant.	:	
	:	

PLAINTIFF'S RESPONSE TO ORDER TO SHOW CAUSE

Plaintiff, through undersigned counsel, respectfully submits this response to the Court's September 12, 2025, Order to Show Cause and states as follows. While the Joint Status Report was not timely filed, Plaintiff has diligently prosecuted this action and made repeated efforts to comply with the Court's directive. Beginning in March 2025, Plaintiff provided Defendant with a draft Rule 26(f) report and has consistently followed up with defense counsel to finalize a Joint Status Report. Despite Plaintiff's repeated outreach, Defendant's counsel failed to return a final, signed version that could be filed. Meanwhile, the parties have engaged in discovery since the 26(f) conference and scheduled mediation to move the case forward. Under these circumstances, the Plaintiff requests that this matter not be dismissed, as any delay has been the result of Defendant's

non-responsiveness rather than Plaintiff's inaction. In further support, the Plaintiff states the below.

On March 25, 2025, Plaintiff provided Defendant's counsel with a draft Rule 26(f) report and requested that the parties confer and finalize a Joint Status Report ("JSR") as required by the Court's Scheduling Order (ECF No. 11). The parties conducted their Rule 26(f) conference around that time and commenced discovery. On April 9 and April 15, 2025, Plaintiff followed up with Defendant's counsel regarding finalization of the JSR but received no substantive response.

On September 5, 2025, the Court's Deputy Clerk reminded the parties that the JSR deadline (September 2, 2025) had passed. Plaintiff immediately contacted Defendant's counsel and circulated a draft. Defendant's counsel provided edits on September 8, 2025, and indicated he was obtaining consent from co-counsel. That same day, Plaintiff advised the Court's Deputy Clerk by email that a draft JSR had been provided and edits exchanged, but that Plaintiff was awaiting Defendant's finalization before filing.

On September 9, 2025, Defendant's counsel confirmed in writing: "*Confirmation, we are good to file.*" However, despite multiple follow-ups by Plaintiff on September 9 and 10, Defendant never returned a finalized version with signature blocks that could be filed. Copies of this correspondence were attached to Plaintiff's September 8, 2025 email to the Court.

While this delay is regrettable, Plaintiff has actively pursued the case. Plaintiff provided Defendant with a timely draft Rule 26(f) report and sought cooperation months before the Court's deadline. Following the Rule 26(f) conference, Plaintiff engaged in discovery consistent with the parties' obligations and took steps to move the litigation forward. Plaintiff also scheduled and prepared for mediation in September 2025 in an effort to resolve the dispute. In addition, Plaintiff promptly responded to the Court's reminders and repeatedly pressed Defendant's counsel to

finalize the Joint Status Report, demonstrating continued attention to the Court's orders and deadlines. The record shows that the delay was caused by Defendant's lack of responsiveness and internal issues with counsel, not any unwillingness by Plaintiff to comply with the Court's orders.

Rule 41(b) dismissal is not warranted where Plaintiff has diligently prosecuted the action and any delay is attributable to Defendant. See *Link v. Wabash R. Co.*, 370 U.S. 626, 633 (1962). Here, Plaintiff has advanced discovery, communicated with the Court, and sought to comply with all deadlines.

Accordingly, Plaintiff respectfully submits that good cause exists to discharge the Order to Show Cause. Plaintiff requests that the Court reset appropriate deadlines, direct the parties to file the JSR forthwith, and permit this case to proceed on the merits.

Respectfully submitted

/s/ Anthony Paronich

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